

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 16 NOV 2005

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Applicant's or agent's file reference P00496WO		FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/GB2004/003472		International filing date (day/month/year) 10.08.2004		Priority date (day/month/year) 13.08.2003
International Patent Classification (IPC) or national classification and IPC A61B5/113, A61B5/08				
Applicant MOSSANEN-SHAMS, Iden				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 22.02.2005		Date of completion of this report 14.11.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office - Glitschiner Str. 103 D-10958 Berlin Tel. +49 30 25901 - 0 Fax: +49 30 25901 - 840		Authorized Officer Abraham, V Telephone No. +49 30 25901-563		



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/003472

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-9 as originally filed

Claims, Numbers

1-6 received on 25.02.2005 with letter of 13.12.2004

Drawings, Sheets

1/3-3/3 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-6
Inventive step (IS)	Yes: Claims	
	No: Claims	1-6
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:

D1 : US 5 853 005 A (SCANLON MICHAEL V) 29 December 1998 (1998-12-29)

D2 : US 4 559 953 A (HAIRE CHRISTOPHER A R ET AL) 24 December 1985
(1985-12-24)

D3 : US 4 324 259 A (WRIGHT BASIL M) 13 April 1982 (1982-04-13)

D4 : DE 199 37 836 A (LAUTERBACH RAINER) 22 February 2001 (2001-02-22)

D5 : EP 0 919 184 A (TOSHIBA ENGINEERING CORP) 2 June 1999 (1999-06-02)

D6 : US 4 245 651 A (FROST JAMES K) 20 January 1981 (1981-01-20)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parenthesis applying to this document):

A pulmonary evaluation device comprising:

an item suitable to be worn over the users body (for example figures 1,7,8).

sensor means (14)

feedback means (15)

wherein the item has one ore more chambers formed between one or more inner and outer walls (figures 1-3) which are sized and shaped to span or collectively span the entire lung region (figure 8; column 4, lines 54,55), whereby as the user's body displaces due to respiration said inner walls follow the displacement and said sensor means sense the pressure within said chambers (column 4, line 57 - column 5, line 5).

3 DEPENDENT CLAIMS 2-6

Dependent claims 2-8 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Article 33(2) PCT), since the as features of these claims are already known from documents D1-D6.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

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Re Item VII

- 1 The independent claim should have been drafted in the two part form in accordance with Rule 6.3(b) PCT, with those features known in combination from D1 being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in a characterising part (Rule 6.3(b)(ii) PCT).
- 2 The features of the claims should have been provided with reference signs placed in parentheses. (Rule 6.2(b) PCT).
- 3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.